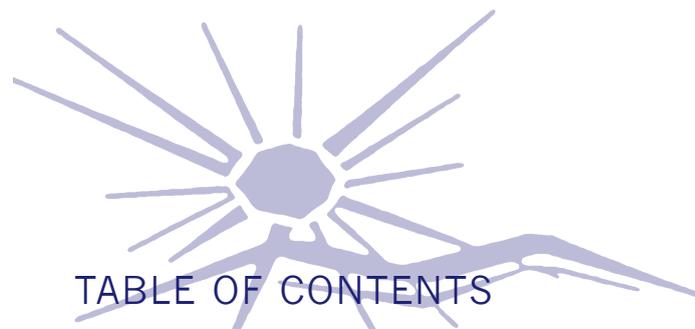


edo

ENVIRONMENTAL DEFENDER'S OFFICE (NSW)
ANNUAL REPORT 2003–2004





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CHAIR'S STATEMENT

As each year passes, our consciousness of the declining state of the global environment grows. During 2003, while the EDO was in court to successfully restrain the filming of a Hollywood action blockbuster, 'Stealth', in part of the Grose Wilderness, many cinema goers were queuing to watch 'The Day After Tomorrow', Hollywood's take on the potentially apocalyptic effects of climate change.

Around the world, 2003 saw oil analysts advising that price rises were not merely the result of short term supply issues but reflected an underlying decline in global resources in the face of expanding demand. Closer to home, it was the year that Sydneysiders first contemplated the prospect of drinking desalinated seawater as our major storage dropped below half its capacity despite ongoing water restrictions.

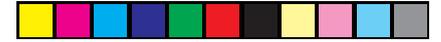
So it is with mixed feelings that we look back at the year. On the one hand, it has easily been one of the Office's most productive and successful. In fact it is hard to remember a year when the

Office has had such momentum. The fruits of the most recent grant from the NSW Law Society's Public Purpose Fund are clearly showing. On the other hand, it is apparent that the defence of the environment at a local, national and global level lags as a priority far behind the desire for larger homes, cars, televisions and hamburgers.

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Like any serious addiction, rampant consumption throughout the industrialised world is no easy matter to regulate. As a society, we are watching its effects but seem unwilling to take seriously its obvious causes. Like the aging addict, we maintain the habit while trusting that a transfusion of technology will cure our ills. It is in this context that the efforts of the Office, and even the role of law generally in stemming environmental degradation, can appear tokenistic.

But despite its limited size, the EDO is a beacon. For nearly twenty years,



it has provided legal advice to largely unfunded community groups around the State, enabling them to understand and activate legal mechanisms for protecting the environment. During that time, it has gone from one part time solicitor to seven full-time lawyers plus support staff. Many of the staff coming to the Office have taken considerable cuts in salary and their

... an in-house scientist gives the Office an enhanced capacity to engage developers and regulators at an early stage, where the opportunity for positive environmental outcomes is greatest.

great dedication to their work reveals a value system that is not determined by financial reward or the desire for greater consumption. With limited resources for experts or counsel, they have run cases against government and large corporations with a high degree of success.

During that time the functions of the Office have also expanded. The education and policy work of the Office is seen as an essential complement to the casework. While New South Wales remains the focus of our efforts, the Office has taken on many national and international issues. The Office has successfully lobbied for the creation of EDOs in other states and assisted in the development of an independent environmental law centre in Papua New Guinea. Both the output and the range of work that the EDO undertakes are evident from the matters referred to in this Annual Report.

From the Board's perspective, two issues stand out in 2003-2004. The first is the steps the Office has taken to address the need for greater access to expert scientific assistance in our work. This year we employed our first scientific advisor, Dr Scott King, with funding provided by the Public Purpose Fund.

Having an in-house scientist gives the Office an enhanced capacity to help its clients engage developers and regulators at an early stage, where the oppor-

tunity for positive environmental outcomes is greatest. Legal aid is not available to ensure a sound decision is made in the first place; only to challenge a bad decision once made. The scientific advisor can now help identify issues for EDO lawyers and clients so

...despite its limited size, the EDO is a beacon. For nearly twenty years, it has provided legal advice to community groups, enabling them to understand and activate legal mechanisms for protecting the environment...

that better informed submissions are made to regulators before decisions are taken.

The scientific advisor's position also involves the establishment and maintenance of a national register of experts who are willing to donate their services for public interest environmental matters. This very important initiative is now underway with a panel of honorary senior experts formed to assist.

The second matter for comment is the Office's accounts. Having run deficits for the previous two years, it is pleasing to report a healthy surplus this year. This was achieved without affecting the quality of the services provided and leaves the Office well placed to plan for a balanced budget in the coming year.

On behalf of the Board, I commend and thank all of the staff and volunteers for the work they have done this year. Morale is high and there is a great sense of momentum and purpose in the Office. Much credit for this goes to the Director, Jeff Smith, and his leadership, but all of the staff so aptly personify the values for which the Office stands. We approach our twentieth year conscious of the scale of the issues facing the environment but just as determined to at least do our bit.

Andrew Chalk
Chair, EDO Board of Management



DIRECTOR'S STATEMENT

Environmental law in Australia continues to change rapidly, with an increasingly complex operating milieu developing. Australia's environmental health has also continued to decline in key areas, with time often being of the essence in finding solutions. This year the Office has sought to both reflect on, and positively respond to, these changes. One obvious change has been a shift to a more balanced approach across our casework, law reform and community education functions.

This shift has been deliberate, and reflective of a broader desire to engage differently with environmental issues. In particular, we have sought to work with the public at an earlier point in any proposal, place a greater focus on informing rural and regional communities about the law and their rights and focus more directly on environmental outcomes, as opposed to procedural review.

As the dynamics of particular environmental issues ebb and flow, the diverse functions of the Office can be used – often at different times – to more fully manage matters of concern to the community. A generous increase in triennial grant monies from the NSW

Law Society's Public Purpose Fund (PPF) has also allowed us to employ an in-house scientific advisor, facilitating an even more integrated approach from within the Office. This position is unique in Australia, and is an exciting development in the practice of public interest environmental law. More generally, but crucially for a small non-government organisation, by creating

The case was a major victory and stands for the principle that activities in national parks and wilderness areas must be consistent with the objects and management principles pertaining to protected areas.

three other positions, this grant enables us to provide a balance of services without unduly drawing resources away from other functions. In sum, the increased grant allows the institutionalisation of a balanced and engaging approach to environmental issues.

As noted, we have sought to shift our casework to a more strategic merits-based approach. As a reflection of this, the Office successfully obtained a

declaration that filming of a war movie in the Grose Valley Wilderness Area of the Blue Mountains National Park was unlawful. The case was a major victory and stands for the principle that activities in national parks and wilderness areas must be consistent with the objects and management principles pertaining to protected areas. In what is certain to become an oft-quoted statement, Justice Lloyd observed 'wilderness is sacrosanct'.

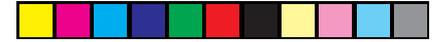
The Office has also acted to pursue other merits matters. The most notable example was the Redbank II case, where we represented the Climate Action Network of Australia (CANAA) as objectors in an appeal by a power company to overturn an historic decision by the New South Wales government to reject the controversial Redbank II Power Station proposal on the basis of its high greenhouse gas emissions. We also provided assistance in a challenge to the merits of management plans regarding kangaroo culling, and a challenge on heritage grounds to the proposed demolition of two villas in Eastern Sydney.

This merits focus is in no way absolute, with the Office continuing its traditional supervisory role of litigat-

ing public interest matters on behalf of the community. For example, on behalf of the Nature Conservation Council of NSW, the EDO challenged the validity of the Gwydir water sharing plan and the operation of the Water Management Act 2000. The Office also took on two matters dealing with coastal protection and the proper ambit of State Environmental Planning Policy No. 71 – Coastal Protection, the state policy that aims to protect and improve the coastal environment and amenity.

Complementing our casework, the Office also embarked on ambitious community education and policy programs. Thanks to funding from the NSW Law and Justice Foundation, the EDO undertook twelve workshops around New South Wales, taking us to places such as Lismore, Newcastle, Orange, Dubbo, Broken Hill and Crescent Head. Legal advice clinics were extensively used in conjunction with these workshop visits.

In May, we conducted a successful and well-attended conference on Pollution Management: Contemporary Challenges and Regulatory Innovation. One of the key objectives of the conference was to redirect the gaze of the



government, industry and the community back to pollution issues, which have taken a back seat in comparison to the management of our natural resources.

Policy work has also been intense throughout the year. We necessarily focussed on the ongoing and intensive negotiations over the native vegetation and water management reforms. However, we also found time to do full submissions on the legislative frameworks pertaining to hazardous chemicals, contaminated lands and pollution generally. Outside of this, we took on a number of other major submissions regarding such diverse topics as invasive species, wild rivers, longwall mining, marine parks, fertiliser waste, the Australia-US Free Trade Agreement, property rights and compensation and the environmental policy of the Export Finance and Insurance Corporation.

The outstanding throughput of the Office and the substantive outcomes achieved over the course of the year are a tribute to the dedication and skill set of our staff. Working at the EDO may be an alternative to private or government practice, but one factor remains a constant: the need for a professional

approach. The community, government and funders rightly demand a first-class service and, in terms of litigation, those on the other side are frequently well-organised, well-resourced, and worthy adversaries. As the last year has shown, the Office has consistently demonstrated it is capable of meeting the challenges posed by the current operating milieu and working constructively towards better environmental outcomes for all.

The Board, as always, has been instrumental in ensuring that we work effectively towards achieving our *raison d'être*. In a period of immense change, the Board has provided stability and guidance. The collective wisdom and judgement of the Board has been pivotal in ensuring that the Office has both sought to identify the challenges ahead, and prepared itself to meet them.

Notwithstanding our independent streak, the Office relies heavily on the goodwill and assistance of others. The community is always deserving of our commendation, providing us with our reason for being, the building blocks of our work and the insights necessary to sustain us. Our current funding allows us to provide a balanced, unique and

engaging suite of services. The PPF is our major funder, but broader support, including government funding and specific grant funding from government agencies and other organisations, is crucial to our existence and relevance. Special mention should be made of the MacArthur Foundation,

'...the Office has consistently demonstrated it is capable of meeting the challenges posed by the current operating milieu and working constructively towards better environmental outcomes for all.

the Community Legal Centre Funding Program, the NSW Law and Justice Foundation, the NSW Environmental and Planning Law Association and the Department of Infrastructure, Planning and Natural Resources.

Our volunteers have, once again, proven inspirational in their workload and enthusiasm. It is no overstatement to say that we could not do the work that we do without them.

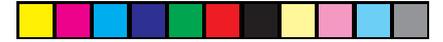
Similarly, members of the bar and the legal profession have shown an ongoing commitment to help the community,

the environment and us. The breadth of this support is both impressive and inspirational: running important (and otherwise costly) test cases, providing pro bono oral and written advice, making generous financial donations, legal checking publications, providing facilities and assistance with conferences and publications. The establishment of the scientific register has also unleashed a torrent of goodwill, with around fifty experts signing on in less than twelve months.

All these factors have allowed us to help the environment and further the cause of public interest environmental law. Pleasingly, the support of others, together with a review of our budgeting processes, has also allowed us to achieve a balance financially. This year we realised a healthy surplus and, crucially, have a 'bank' of programs, public interest cases and initiatives to help sustain us throughout the coming year.

I hope that this report truly reflects the excellent work and endeavours of the Office, together with the contribution made by others.

Jeff Smith
Director



INTRODUCTION

The EDO mission is to empower the community to protect the environment through law, by pursuing its three core functions:

- litigation and legal advice;
- policy and law reform; and
- community legal education.

This report reviews the performance of the Office across each of these key functions for the 2003-2004 financial year.

CASEWORK

LITIGATION

The EDO represents individuals and community organisations in public interest litigation to protect the environment. In 2003-2004, the EDO was involved in a number of important cases of significant community concern.

Protecting Wilderness Areas

Blue Mountains Conservation Society Inc v Director-General [2004] NSWLEC 196

In a significant victory for wilderness areas, the EDO obtained an urgent injunction to prevent commercial filming in the Grose Wilderness area of the Blue Mountains National Park.

The injunction was obtained on the basis that the authority and consent for the filming activities were issued in breach of the *National Parks and*

Wildlife Act 1974 and the *Wilderness Act 1987*.

The landmark decision of the Land and Environment Court is a significant statement on the value of wilderness areas and the protection that should be afforded to them.

Justice Lloyd found that the proposed commercial filming was completely antipathetic to the intended use of the protected area, stating that 'declared wilderness areas are sacrosanct'.

Responding to Climate Change

National Power Ltd v Minister for Planning and Climate Action Network Australia Inc [2004]

The EDO provided legal advice and representation to the Climate Action Network Australia in the first court case in Australia to focus on climate change issues in over ten years.

In the case, a power company sought to overturn an historic decision by the NSW government to reject the controversial Redbank II Power Station proposal on the basis of its high greenhouse gas emissions.

The Climate Action Network Australia, with support from WWF Australia, the Australian Conservation Foundation and Greenpeace Australia Pacific, joined the litigation as second respondent.

In September 2004, the power company withdrew its appeal. The

historic decision to refuse the proposal on the basis of climate change concerns remains intact, representing a turning point in NSW environmental law.

Upholding Coastal Protection Laws

Evans v Maclean Shire Council [2004] NSWLEC 512

In early 2004, the EDO commenced legal action to challenge a proposed expansion of a tourist facility on Palmers Island on the north coast of New South Wales.

The basis for the challenge was that the local council had contravened *State Environmental Planning Policy No. 71 - Coastal Protection* by failing to refer the proposal to the state government for development consent.

If successful, the decision will strengthen the operation of the coastal protection policy and clarify the circumstances in which the state government may intervene to protect coastal areas.

Protecting Coastal Bushland

Friends of South West Rocks Inc v Machro Pty Ltd [2004]

In 2003, the EDO commenced legal proceedings against two developers, a local council and the National Parks and Wildlife Service to protect an area of coastal bushland threatened by residential development.

The basis for the challenge was the failure of the local council to refer the proposed developments to the state government for development consent pursuant to *State Environmental Planning Policy No. 71*.

The bushland is home to a number of threatened species, including the Squirrel Glider and the Brush-tailed Phascogale, which are likely to be significantly affected by the development.

If successful, the case will establish an important precedent for the application of coastal protection policy and threatened species law. The decision of the Land and Environment Court is expected in early 2005.

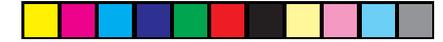
Defending Rivers and Wetlands

Nature Conservation Council Inc v Minister [2004] NSWLEC 33

In 2003, the EDO commenced proceedings on behalf of the Nature Conservation Council of NSW to challenge the validity of the water sharing plan for the Gwydir River.

In the case, it was argued that the water sharing plan failed to adequately protect environmental flows, with potentially serious impacts on dependent ecosystems, including the internationally listed Gwydir wetlands.

The Land and Environment Court dismissed the appeal, finding that the water sharing plan was valid. The EDO



has subsequently lodged an appeal in the NSW Court of Appeal.

The appeal has important implications for water management and the protection of environmental flows in New South Wales. It is expected that the appeal will be heard in late 2004.

LITIGATION ASSISTANCE

In cases where the EDO is unable to conduct litigation on behalf of a client, the office may provide legal advice and other assistance to self-represented litigants. In 2003-2004, the EDO assisted with a number of important public interest cases:

Opposing Unlawful Development *No Dump Residents Association Inc v Collex Pty Ltd*

The EDO provided ongoing legal advice and assistance to the No Dump Residents' Association in their challenge to the controversial Clyde Waste Transfer Station in Western Sydney.

In a significant victory for the community, the Land and Environment Court found that the proposal was prohibited and that the development consent issued for the project was unlawful. However, in response to the court's finding, the state government introduced special legislation authorising the project.

The Association has now applied for an injunction to prevent the transfer of waste until a full environmental

assessment is carried out and additional approvals are granted. This case is to be heard in late 2004.

Preserving Urban Heritage *Kavia Holdings Pty Ltd v South Sydney Council [2004]*

In 2003, the EDO provided advice to the Potts Point and Kings Cross Heritage Conservation Society in a development matter involving the proposed demolition of two villas with significant heritage values. The EDO assisted the society in briefing counsel and preparing for the hearing.

The Society were the first group to use new amendments to the *Land and Environment Court Act 1979* that enable community groups, in certain circumstances, to be joined as parties in merits appeals before the Land and Environment Court. Unfortunately, the court decided in favour of the developer, allowing the demolition.

Preventing Animal Cruelty *Wildlife Protection Association of Australia v Minister [2004]*

The EDO assisted the Wildlife Protection Association of Australia in an appeal against the decision of the Federal Minister for the Environment and Heritage to approve wildlife trade management plans for the killing and export of meat and skins of kangaroos shot in Queensland, Western Australia and South Australia.

The basis of this challenge is that the plans do not comply with the animal welfare provisions of the *Environment Protection and Biodiversity Conservation Act 1999* and the *Environment Protection and Biodiversity Conservation Regulations 2000*, particularly with reference to joeys and young kangaroos.

LEGAL ADVICE

The EDO provides individuals and community organisations with free initial telephone advice and written advice on environmental law and policy.

Telephone Advice

The EDO runs a popular toll-free telephone advice service, the *Environmental Law Line*. The service is staffed by a duty solicitor on Tuesday, Wednesday and Thursday each week.

In 2003-2004, the EDO dealt with over 1000 telephone inquiries, including around 800 legal inquiries which were dealt with by solicitors. Of these, approximately 50% came from rural and regional New South Wales.

The EDO also responded to numerous requests for information about community workshops, publications and other resources during the year.

Written Advice

The EDO provides individuals and organisations with written advice on public interest environmental law matters. More than 90 detailed written advices were prepared during the 2003-

2004 period, a significant increase in numbers from previous years.

These advices addressed a diverse range of public interest environmental law issues, including:

Biodiversity Conservation

- listing of endangered ecological communities under federal law
- declaration of critical habitat for the Grey Nurse Shark
- preparation of a management plan to protect an endangered species of orchid on council land
- validity of a decision to issue a licence to harm threatened species
- federal laws governing the importation of threatened species
- legislative and policy review of conservation objectives in private zoos
- listing of the Northern Rivers region as a biosphere area under federal law
- implications of entering into voluntary conservation agreements

Vegetation Management

- access to statistical information regarding NSW land clearing levels
- proposed content and format of property vegetation plans
- definition of 'regrowth' under new land clearing legislation
- definition of 'minimum extent necessary' under new land clearing legislation
- protection of groundcover under new land clearing regulations



- interpretation of the term ‘clearing’ under existing land clearing laws
- relationship between native vegetation reforms and bushfire regulations
- validity of council tree preservation orders and bushfire hazard reduction exemptions

Water Management

- environmental assessment of a proposed floodplain development
- federal environmental assessment of changes to environmental flows
- common law remedies for harm caused to River Red Gums in the Murray-Darling Basin
- legality of applying water sharing plan rules prior to commencement of the plan
- state, territory and federal responsibility for water supply in Queanbeyan
- impact of NSW local government boundary changes on water supply in the ACT
- environmental impact of proposed water access licence exemptions
- environmental implications of proposed water management regulations

Wetlands

- international listing process for wetlands under the Ramsar Convention
- legal responses to a highway development passing through coastal wetlands

Planning and Development

- legal issues associated with the proposed Port Botany expansion
- legal issues associated with proposed development of the ADI site in Western Sydney
- validity of development consent for residential development at Sandon Point
- validity of the Clyde Waste Transfer Terminal (Special Provisions) Act 2003
- breach of conditions of approval for a large dam project
- validity of a proposal to tar seal and extend a road through littoral rainforest
- ability of the Minister for Planning to repeal regional environmental plans
- validity of a licence for a private company to use public land for paintball activities
- implications of proposed amendments to state policy on intensive agriculture
- incorrect characterisation of a waste storage facility
- validity of a lapsed development consent for a tourist facility
- potential legal challenges to a proposed speedway development
- variation and lapse of development consent
- validity of allowing a light industrial development in a rural residential zone

- procedural requirements for the preparation of a local environmental plan
- prohibition of fast food outlets in the Blue Mountains local government area
- avenues to challenge an approval for a bypass at Albury
- prospects of appealing against a proposed tourist development
- intensification of jet plane joy flights at Bankstown Airport

Environmental Impact Assessment

- environmental impact assessment of overseas projects funded by Australia’s export credit agency
- adequacy of an environmental impact statement for a proposed floodplain development
- adequacy of impact statements for development on the ADI site in Western Sydney
- requirements for a species impact statement for development by a public authority
- requirements for a species impact statement for a local population of a threatened species.
- requirements for an eight part test to determine impact on threatened species
- adequacy of impact assessment for threatened species affected by a large dam project
- ousting of environmental laws under the Snowy Mountains Cloud Seeding Trial Bill 2004

Climate Change

- breaches of international obligations in relation to climate change and World Heritage
- government responsibilities under federal law to implement the World Heritage Convention

Coastal Protection

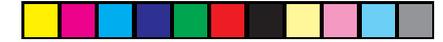
- implications of littoral rainforest being declared an endangered ecological community
- protection of littoral rainforest by state coastal protection policies
- legality of a large coastal subdivision proposal under state coastal protection policy
- validity of consent for foreshore construction prior to introduction of state coastal protection policy

Cultural Heritage

- failure to adequately consider cultural heritage impacts of a residential subdivision near Byron Bay
- cultural heritage impacts of a tourist development at the North Head Quarantine Station

Mining

- validity of sandmining approval at Mooroota
- advice regarding the Lake Cowal goldmine
- validity of development application for a quarry



Forestry

- environmental impact assessment requirements for forestry in the Brigalow Belt
- legal options to address water pollution caused by logging operations near Eden

Pollution

- validity of a council decision to rezone contaminated land for residential development
- powers of state and local government to manage pollution from small marinas
- proposed sewerage treatment plant near Evans Head
- air and water pollution impacts of intensive dairy feedlots
- remediation of contaminated land at the ADI site in Western Sydney
- compliance with air quality and emission limits for the M5 East motorway
- remediation of contaminated land in a heritage listed meatworks site
- validity of development consent to irrigate tannery effluent
- validity of a pollution licence transferred to a tannery
- pollution event resulting from sediment and erosion runoff in Errowal Bay
- noise impacts of a shooting range
- noise pollution from an automated broiler chicken farm

Public Land

- maintenance and reclassification of community land
- temporary access to premises using fire trials on crown land
- degradation of public land by recreational vehicles
- paintball activities on public land without development consent

Advocates' Rights

- advice on court procedures in a development appeal
- advice to conservation groups on subpoenas
- advice on lobbying council to refuse consent for a large tourist development
- public consultation requirements regarding a plan of management for a local park
- advertising requirements and procedural fairness for crematorium development
- public notification requirements for a development application
- advice on providing expert evidence in merits matters
- confidentiality requirements for environmental consultancy work.

EDO CLIENTS

In 2003-2004, the EDO provided legal assistance to hundreds of clients, including a diverse range of individuals and community organisations. Organisations assisted by the EDO during the year include:

Aberdeen Action Group
Australian Conservation Foundation
ACT Greens
ADI Residents Action Group
Anvil Hill Project Watch Association
Association for Berowra Creek
Ballina Environment Society
Bendalong and Districts Environmental Association
Bickham Coal Action Group
Blue Mountains Conservation Society
Botany Bay and Catchment Alliance
Bundagen Cooperative
Cabarita Bogangar Ratepayers Association
Caldera Environment Centre
Conservation Council of the South East Region and Canberra
Central West Environment Centre
Citizens Against Minimbah Landfill
Citizens for Coastal Protection
Colong Foundation for Wilderness
Concerned Residents Against the Balickera Speedway
Cross City Tunnel Action Group
Dangar Island League
Duffys Forest Resident Association
Eco Property Pty Ltd
Eco Transit Sydney
Environment Centre of the Northern Territory
Eurobodalla Greens
Friends of Honeysuckle
Friends of Quarantine Station

Friends of South West Rocks
Friends of Tumblebee
Gene Ethics Network
Greening Bathurst
Greenpeace Australia Pacific
Gunning Sustainable Development Association
Humane Society International
Illawarra Residents Against a Toxic Environment
Jervis Bay Regional Alliance
Lake Cathie Fish Kill Committee
Lowbidgee League
Maitland Landcare
Mandalong Progress Association
Minewatch
National Parks Association of NSW
Nature Conservation Council of NSW
North Coast Environment Centre
North Haven Landcare
Northern Rivers Community Legal Centre
NSW Greens
Pindimar Bundabah Community Association
Residents Against Improper Development
Redhead Residents Action Group
Residents Against Dioxins
Save Hawkesbury's Unique River Environment
Save Our Streetscapes
Save the Ridge
Springwood Winmalee Action Group
Sunrise Residents Action Group
Sustaining Australia
Swanhaven Progress Association
Sydney Metropolitan Wildlife Services
Total Environment Centre
Tweed Heads Environment Group
Wildlife Protection Association of Australia
Wingham Forest Action
WWF Australia



EDO Science Program

This year saw the creation of an exciting new scientific advisor position at the EDO. Dr Scott King was employed to help the Office and community understand and use science as it applies to environmental law. The EDO is the first community legal centre in Australia to employ an in-house scientist.

Environmental law is becoming heavily reliant on expert scientific and technical information. Expert consultants prepare environmental impact assessments of proposed developments and activities. As a result, the community needs ready access to expert knowledge and advice to effectively participate in the planning and development process.

To help provide this advice, the scientific advisor established a register of experts willing to provide assistance on a pro bono or reduced fee basis. Fifty experts around New South Wales and Australia have agreed to assist with public interest environmental matters.

The scientific advisor has also established a technical advisory panel of experts in a wide variety of fields including ecology, urban planning and transport, energy and climate change and environmental economics;

The scientific advisor also provides expert advice within his fields of expertise. He not only provides assistance to the EDO legal team, but also

contributes to the policy and education work of the Office.

During 2003-2004, the EDO Scientific Advisor:

- provided comments and expert opinion to solicitors and community members for numerous cases on a diverse range of issues, including threatened species assessments, pollution and contaminated land;
- assisted with preparation of submissions to government on behalf of clients including, for example, a submission highlighting inadequacies in the assessment of a major irrigation development;
- provided comments in relation to reviews of assessment guidelines under state and federal threatened species legislation;
- prepared and delivered a community workshop on law, science and the environment;
- hosted an information evening for members of the Environment Institute of Australia and New Zealand;
- wrote a number of articles for Environmental Defender on community evidence collection; and
- prepared public information resources on the EDO Science Program, including brochures and information for the EDO website: www.edo.org.au/edonsw.

POLICY AND LAW REFORM

The EDO plays a key role in influencing environmental policy and law reform in New South Wales.

Policy and law reform activities undertaken by EDO fall into three main areas:

- submissions on government proposals;
- policy advice to environment groups; and
- engagement as a key stakeholder.

SUBMISSIONS ON GOVERNMENT PROPOSALS

The EDO regularly writes submissions in response to legislative reviews, government proposals and parliamentary inquiries. In the past year, these have included:

- submission on the review of the *Protection of the Environment Operations Act 1997*;
- submission on the review of the *Contaminated Land Management Act 1997*;

- submission on the review of the *Environmentally Hazardous Chemicals Act 1985*;
- submission on reform of the *Threatened Species Conservation Act 1995*;
- submission to a federal inquiry on the *Australia-United States Free Trade Agreement*;
- submission to the Productivity Commission on the impact of vegetation management laws;
- submission to the federal government on the impacts of climate change on biodiversity;
- submission to the National Water Initiative on water management reforms;
- submission on the introduction of the *Filming Approval Bill 2004*;
- comment on the *Coastal Protection Regulation 2004*;
- comment on the application of fertiliser waste to agricultural land; and
- comment on a proposed state policy on the application of development standards.



Australia-US Free Trade Agreement

On behalf of the National EDO Network, EDO New South Wales reviewed and provided submissions on the Australia-US Free Trade Agreement.

The submissions raised concerns about a number of matters, including:

- the circumstances under which compensation would be payable;
- the circumstances in which environmental regulations may be challenged as barriers to trade;
- the provisions for dispute settlement, including institutional arrangements and the appropriate forum;

- international agreements and domestic capacity to regulate in the national interest; and
- the handling of the negotiation and consultation process.

A number of significant gains in relation to environmental matters were made during the course of the consultations. Nevertheless, the National EDO Network remains concerned about certain aspects of the final agreement. For example, the agreement lays the foundation for US corporations to challenge Australian environmental laws on the basis that they are a barrier to free trade.

The National EDO Network will continue to monitor developments in the area.

POLICY ADVICE

The EDO frequently provides advice on policy and law reform issues to environment and community groups and plays an important role in supporting the Environment Liaison Office.

Environment Liaison Office

The Environment Liaison Office (ELO) monitors proposed laws that are introduced into the New South Wales Parliament and coordinates the response of peak environment groups to those proposed laws.

The Environment Liaison Office is funded by an alliance of peak environmental groups, including:

- Australian Conservation Foundation;
- Blue Mountains Conservation Society;
- Colong Foundation for Wilderness;
- Friends of the Earth;
- Greenpeace;
- National Parks Association of NSW;
- Nature Conservation Council of NSW;
- The Wilderness Society; and
- Total Environment Centre.

The EDO plays a crucial advisory role, providing legal advice on law reform and legislative amendments.

The EDO has been involved in reviewing or proposing amendments to a diverse range of Bills in relation to public interest and environmental issues over the last year, including:

- Native Vegetation Bill 2003
- Natural Resources Commission Bill 2003
- Catchment Management Authorities Bill 2003
- Clyde Waste Transfer Terminal (Special Provisions) Bill 2003

- Environmental Planning and Assessment Amendment (Development Consents) Bill 2003
- Sydney Water Catchment Management Amendment Bill 2003
- Filming Approval Bill 2004
- Snowy Mountains Cloud Seeding Trial Bill 2004
- State Water Corporation Bill 2004
- Statute Law (Miscellaneous Provisions) Bill 2004
- Water Management Amendment Bill 2004.

Policy, Law Reform and Public Participation

In 2002, the EDO successfully argued for the extension of public participation rights under the *Land and Environment Court Act 1979*. The amendment allowed community groups to be joined as parties in merits appeals by objectors before the Land and Environment Court.

Prior to the amendment, community groups could not be parties to objector merits appeals and thus had no rights to appeal an unfavourable decision or call expert evidence in support of their position.

During 2003-2004, the provision was successfully used for the first time by the Potts Point and Kings Cross Heritage Conservation Society, when Justice Pain allowed the group to join as a party in a development matter regarding the proposed demolition of two villas with significant heritage values.

This case demonstrates the interrelated nature of our policy and casework programs and their important role in facilitating community environmental advocacy.



Policy Advice to Environment Organisations

From time to time, the EDO is retained by environment groups to provide policy advice on a particular area of law or to develop law reform proposals. In the past year, the EDO has provided policy advice in relation to the following issues:

- legal mechanisms for establishing and protecting wild rivers and aquatic reserves;
- bushfire law in New South Wales, with particular reference to asset protection zones;
- fisheries management, for example of development approval requirements and fish attracting devices;
- model regulations for the management of native vegetation in the Northern Territory;
- national framework for regulation of invasive species;
- ongoing advice regarding native vegetation regulations;
- legality and impacts of longwall coal mining;
- effectiveness of the state coastal protection policy; and
- regulation and labelling of genetically modified organisms.

KEY STAKEHOLDER ROLE

The EDO also stands alongside the peak conservation groups at many government forums. The Office provides an independent policy voice and legal advice in such circumstances.

In 2004, the EDO was appointed to an expert panel to review the planning reform process in New South Wales. This panel is currently analysing a number of taskforce reviews undertaken in the areas of planning, local development assessment, developer contributions, major assessments and infrastructure, state environmental planning policies, Ministerial consent and master planning.

COMMUNITY EDUCATION

The EDO Education Program seeks to empower people and community groups to participate in environmental decisions and inspire them to use the law to protect the environment.

The EDO Education Program provides the following services to the community:

- community workshops to enable practical participation in environmental decisions;
- seminars and conferences on key issues to promote law reform and implementation of new laws; and
- plain language educational materials in a range of formats, explaining environmental law and policy.

COMMUNITY WORKSHOPS

Community environmental law workshops are tailored to meet the needs of the workshop participants, with an emphasis on practical application of the information provided.

In 2003-2004, workshops were held in Grafton, Lismore, Newcastle, Orange, Broken Hill, Ourimbah, Dubbo, Wollongong, Bega, Armidale, Crescent Head, Wagga Wagga, the Blue Mountains and Granville.

More than 300 people participated in the workshops, including conservationists, landholders, local and state government employees, students, teachers, legal practitioners and consultants.

Topics covered in the workshops included planning and development law, threatened species law, pollution law, access to information, effective submission writing, rights of appeal and activists' rights.

The EDO took the opportunity to conduct face-to-face legal advice clinics when in rural areas. These were held in Grafton, Coffs Harbour, Bellingen, Lismore, Ocean Shores, Evans Head, Nimbin, Arakoon, Newcastle and Muswellbrook.

The EDO gratefully acknowledges the generous financial support provided by the NSW Law and Justice Foundation for our rural and regional workshop program. We would also like to thank the Legal Information Access Centre for their valuable contribution to our community workshops.

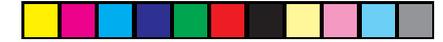
Workshop Feedback

I wish to thank you for the informative, insightful and inspiring workshop. I was delighted to learn about the positive public education role that the EDO is pursuing by running such courses.

The only way the environment will be protected is by giving the tools, knowledge, and confidence to those in the community who are passionate to protect it.

Thank you for such a vital and important workshop to empower communities to defend the environment.

*Participant,
EDO Environmental Law Workshop*



ENVIRONMENTAL LAW SEMINARS

Environmental Law for Community Legal Workers

On 26 February 2004, the EDO presented an environmental law seminar for legal staff from community legal centres and Legal Aid.

Participants discussed laws relating to air, water and noise pollution, environmental planning, development assessment and local government responsibilities and received practical guidance on responding to common environmental law inquiries.

‘The session was very well presented and contained lots of very useful information for us to use when advising our clients’, said Matt Turner, Legal Aid Solicitor.

Thank you to the NSW Legal Aid Commission for hosting this seminar.

Human Rights and Environment Seminar

On 3 May 2004, the EDO, together with NSW Young Lawyers, presented a free evening seminar exploring the links between human rights and the environment.

Local and international speakers provided unique insight into the diverse links between human rights and environmental issues and discussed strategies for exposing and preventing human rights and environmental abuses.

The forum was chaired by Simon Rice OAM, President of Australian Lawyers for Human Rights.

- The Honorable Justice Nicola Pain of the NSW Land and Environment Court described the role of international institutions and legal instruments in protecting natural ecosystems and human communities.
- Nnimmo Bassey of Environmental Rights Action in Nigeria discussed human rights and environmental issues in Nigeria, including the impacts of multinational oil corporations on local communities in the Niger Delta.
- Almah Tararia of the Environmental Law Centre in Papua New Guinea talked about the use of public interest litigation to protect the environmental and human rights of traditional landholders in Papua New Guinea.
- Lisa Ogle, former Director of the Environmental Defender’s Office, discussed the potential application of human rights and environment principles in the Australian context, drawing on examples from the European Union.

Thank you to Minter Ellison Lawyers for hosting this seminar.

ANNUAL CONFERENCE

Pollution Management – Contemporary Challenges and Regulatory Innovation

On Friday 14 May 2004, the EDO hosted a one-day conference exploring emerging issues in pollution law and policy.

The conference examined existing pollution management initiatives and identified innovative mechanisms for dealing with ongoing pollution management issues.

In particular, the conference addressed the following key themes:

- recent developments in pollution law and policy;
- state government, local government and community pollution management initiatives;
- access to information, public participation and access to justice in pollution matters;
- pollution management issues in rural and regional areas;
- the relationship between planning and pollution management; and
- innovative enforcement and compliance mechanisms for pollution management.

Conference sessions provided an overview and evaluation of laws, policies and programs, with an emphasis on identifying strategic directions for future improvements in law and policy.

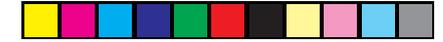
The conference provided an important forum for dialogue between a wide range of stakeholders, including government agencies, community organisations, industry representatives, legal practitioners, academics, researchers and consultants.

Thank you to Blake Dawson Waldron for providing the venue and catering facilities for this conference.

PUBLICATIONS

The EDO Education Program publishes a wide range of easily understood and accessible legal resources.

- **The EDO eBulletin:** a weekly listing of news, events, public notices, development applications and opportunities for public comment.
- **Environmental Defender Newsletter:** a quarterly update on selected developments in environmental law in New South Wales.
- **Impact Public Interest Environmental Law Journal:** a quarterly review of key developments in public interest environmental law in Australia.
- **EDO Environmental Law Fact Sheets:** a concise and accessible introduction to a wide range of environmental law issues.
- **EDO books and conference proceedings:** a more detailed analysis of key areas of law, including important reforms in environmental law.



In 2003-2004, the EDO undertook substantial updating of its *Environmental Law Toolkit* and *Non-Violent Action Guide*. It is anticipated that new editions of these publications will be released in early 2005.

EDO staff also contributed to numerous newsletters, journals and books, including a forthcoming edition of the popular Redfern Legal Centre Publishing publication, *The Law Handbook*.

In collaboration with the NSW Community Legal Education Workers Group, EDO staff produced an updated guide to community legal education for community legal centres.

WEBSITE

In 2003, the EDO launched its new look website at www.edo.org.au/edonsw. The website contains free resource materials on a wide range of environmental law issues, including a comprehensive set of environmental law fact sheets and copies of recent law reform submissions.

Thank you to Guy Cowan, for months of voluntary work on the website, and Scott Ludlum, for preparing the initial templates for the website.

NATIONAL EDO NETWORK

The Environmental Defender's Office (NSW) is one of nine independent Environmental Defender's Offices in Australia.

The members of the EDO Network share resources and ideas and meet for an annual network meeting. Members of the network contribute to the production of the quarterly environmental law journal, *Impact*.

For more information on the EDO Network, please visit our national website at: www.edo.org.au.

INTERNATIONAL PROGRAM

PAPUA NEW GUINEA

In 2003-2004, the EDO continued to work with the Environmental Law Centre (ELC) in Papua New Guinea to protect the rights of customary landholders and the environment. The EDO provides training for ELC lawyers, assists with legal research and liaises with barristers and lawyers willing to assist with major cases.

In 2001-2002, we reported on the victory of the customary landowners, the Maisin people, in the long-running Collingwood Bay case. The victory in the case resulted in the protection of 38,000 hectares of rainforest. We are pleased to report that the victory has also had much wider ramifications.

Neighbouring landowners have been empowered by the victory and resource companies are wary following exposure of the fraudulent granting of timber permits. As a result, landowners have reserved approximately 1.2 million hectares of land near Collingwood Bay for conservation purposes.

In 2003-2004, ELC represented customary landholders who had been sued for defamation in relation to public statements about the activities of a tuna factory at Madang. ELC was successful in forcing the company to discontinue the action against the customary landholders.

During the year, ELC undertook a number of legal reconnaissance trips to establish contact with remote communities and continued its series of community log monitoring workshops, which aim to equip landowners in rural areas with skills and knowledge to identify illegal activities by logging companies.

EDO Solicitor, Elisa Nichols traveled to Port Moresby for an exchange visit with ELC in October 2003. Elisa met with ELC staff to review the partnership project and to plan training activities for 2004. This visit was an important opportunity to continue developing relationships between EDO and the newer members of ELC.

In 2003, ELC Lawyer Ernest Wilmot traveled to Sydney for a week to work with the EDO. Ernest worked closely

with EDO staff and attended a three day advocacy training course with the Australian Advocacy Institute. This course focuses on the practical skills needed for court appearance work.

In May 2004, ELC Senior Lawyer, Annie Kajir, and ELC Legal Policy Officer, Nanai Puka, visited the EDO and met with conservation groups to discuss protection of marine areas in Australia. EDO Policy Officer, Rachel Walmsley, provided ongoing support in relation to marine protected area policy in Papua New Guinea.

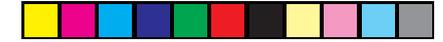
CAMBODIA

The EDO is currently working in partnership with the Australian Agency for International Development (AusAID) to provide legal support to the Cambodian Community Legal Education Centre (CLEC).

Susie Brown, a solicitor and member of the EDO (ACT) Board of Management, is currently acting as legal advisor to CLEC under the AusAID Australian Youth Ambassadors for Development Program.

EDO Principal Solicitor, Ilona Millar, met with Susie in Phnom Penh in April 2004.

CLEC is a legal resource centre, promoting the rule of law, justice, and democracy in Cambodia. CLEC's mission is to enhance governance in Cambodia by developing legal resources and providing knowledge



about the law to civil society, civil servants and the public at large.

In its six-year history, CLEC has taught over 5,000 Cambodians in different subjects of law and has been involved in advocacy on a number of significant law reform issues such as land law, labour law, elections and democratisation.

CLEC is presently embarking upon a three-year project to develop land and natural resources law in Cambodia. Areas that the project address include:

- improving the institutional and regulatory framework for the registration of indigenous community land title; and
- increasing the capacity of indigenous people to assert their claim to a fair distribution of land and natural resources by enhancing awareness and understanding of their legal rights to land and natural resources;

The project will involve, amongst other things, consulting with government on law reform issues, providing information to stakeholders through education sessions and increasing awareness of land and natural resource law issues.

As an AusAID Partner, EDO provides support to Susie and CLEC in implementing its projects. This involves carrying out research on comparative legal issues and providing strategic advice and information on educational and policy issues as the need arises.

ENVIRONMENTAL LAW

ALLIANCE WORLDWIDE

EDO lawyers are active members of the Environmental Law Alliance Worldwide (E-LAW), an international network of public interest environmental lawyers. For more information, visit: www.elaw.org.

ACKNOWLEDGEMENTS

VOLUNTEERS

Every year, volunteers dedicate their personal time and resources to support the work of the EDO. In 2003-2004, our volunteer team generously contributed almost three thousand hours of voluntary assistance, greatly enhancing the capacity of the office to provide accurate and timely legal assistance. The EDO would like to thank the following volunteers from 2003-2004 for their commitment and hard work:

*Rebecca Bates
Margaret Cheung
Viet Duong
Ben Fuller
Robert Ghanem
Shabnam Gill
Kane Glanville
Natasha Hammond
Peter Holt
Elaine Johnson
Ralph Kaye
Justin Lodge
Caroline Martin
Cassandra May
Courtenay Mitchell
Andrew Newman
Evana Ushakoff
Remali Vilat.*

PRO BONO ASSISTANCE

The legal and scientific community also lend invaluable support to the work of the EDO, providing legal and advisory services for a reduced fee or, in many cases, for no charge. The EDO is deeply grateful to the many barristers, solicitors, scientists and experts for their ongoing commitment to the provision of pro bono assistance in public interest matters.

EPLA POLICY INTERNSHIP

The EDO gratefully acknowledges the ongoing support of the Environmental and Planning Law Association for the EDO Policy Internship Program. During 2004, Peter Holt was employed as Policy Intern to support the work of the EDO policy and law reform team.

DONORS

The EDO gratefully acknowledges the following donors for their generous financial and in-kind support:

*Blake Dawson Waldron
Clarence Environment Centre
Commonwealth Community Legal Centre Funding Program
Department of Infrastructure, Planning and Natural Resources
Environment Protection Authority
Environmental and Planning Law Association (NSW)
Gilbert + Tobin
MacArthur Foundation
Minter Ellison
No Time to Lose
NSW Law and Justice Foundation
NSW Legal Aid Commission*

*Rarebit Creative
Total Computer Services
Paul Adam
Geoffrey Ball
Terry Barratt
S Brown
Susan Caffin
Andrew Cox
FJ & PG Edwards
Patricia Edwards
Rachel Fitzhardinge
RE & JC Fleming
Katherine Gardner
Kylie Gauvin
Bernard Griffin
Sylvia Hale
Phyl Hulse
D James
Andrew Kelly
GA & JA Lambert
Craig J Leggat
Betty S Lloyd
Jonathan S Milford
Mary Newlinds
Katie O'Bryan
Jill E Pain
Keith Pearson
Susan Robertson
Patricia Ryan
RF Scammell
Ralph Scott
Richard Smyth
Jim Somerville
Frank Talbot
Paul Toni
PJ Walsh
R Webb*



STAFF

As at 30 June 2004, the EDO staffing was:

Director
Jeff Smith

Principal Solicitor
Ilona Millar

Solicitors
Elisa Nichols
Jessica Simpson
David Jeffery

Policy Officer
Rachel Walmsley

Policy Intern
Peter Holt

Scientific Advisor
Dr Scott King

Education Coordinator
Pepe Clarke

Education Assistant
Christine Palomo

Public Affairs Officer
Samantha Magick

Administration Team
Matt Ridley (Manager)
John Scanlan
Julie Stokes

Book Keeper
Margaret Jones

Following an increase in core funding, the following additional appointments were made:

- Dr Scott King was appointed to the new position of Scientific Advisor.
- Samantha Magick was appointed to the new position of Public Affairs Officer.
- Jessica Simpson was appointed to a new Solicitor position.

There were several staffing changes through the year:

- Paul Toni, Principal Solicitor, accepted a position with WWF Australia. Ilona Millar was appointed to the position of Principal Solicitor.
- Justine de Torres, Solicitor, left the office following a period of leave. David Jeffery was appointed to the position of Solicitor.
- Robert Sinafea, Administrative Assistant, left the office after four years with the EDO. Julie Stokes was appointed to the position of Administrative Assistant.
- Lucy Sharman, Education Coordinator, left the office following a period of leave. Pepe Clarke was appointed permanently to the position of Education Coordinator.
- Richard Ross, Librarian, left the office after seven years with the EDO.
- Todd Neal and Peter Holt completed policy internships during the year.

BOARD OF MANAGEMENT

The EDO is a non-profit company limited by guarantee. The EDO Board of Management provides strategic direction and assistance to staff. The Board is elected at the annual general meeting held each year.

Board members all work on a voluntary basis. They attend six-weekly meetings and annual policy days. They make an important contribution to the work of the Office, guiding its strategic development and devoting considerable time and expertise to the work. We thank them for their ongoing contribution and commitment.

Patron
Mr Hal Wootten AC QC

The EDO Board at 30 June 2004 comprised:

Chair
Andrew Chalk
Partner,
Chalk & Fitzgerald Associates

Vice-Chair
Bruce Woolf
Partner, Woolf & Associates

Secretary
Barbara Adams
Former Executive Director,
Environment Protection Authority

Treasurer
Ralph Scott
Finance Manager,
Sydney Regional Aboriginal
Corporation Legal Service

Jeff Angel
Director, Total Environment Centre

Andrew Cox
Chief Executive,
National Parks Association of NSW

Katherine Gardner
Solicitor, Minter Ellison

Murray Hogarth
Consultant, ECOS Corporation

Frank Hubbard
Managing Director,
Worthwhile Projects

Professor Michael Jeffery
Director, Centre for Environmental
Law, Macquarie University

Warwick Pearse
Assistant Director,
NSW Department
of Community Services



FUNDING AND FINANCIAL REPORT

FUNDING

As foreshadowed in last year's Annual Report, the successful application for three-year funding by the NSW Law Society Public Purpose Fund (PPF) meant a marked change in the overall income of the EDO, and opened the way for the implementation of a range of new operational strategies.

In purely financial terms, PPF funding rose from \$260,000 to \$506,900, or 44.8% of revenue, and will be maintained at over \$400,000pa for the next two years, providing a sound financial footing for the expanded EDO role. Commonwealth and NSW Government funding amounts remained static, with no indication that this will change in the foreseeable future.

The second significant change in funding related to the MacArthur foundation, and in particular in the accounting treatment of this income (see International Program, and Financial Performance below). The third of the MacArthur Foundation funded projects in Papua New Guinea commenced in April 2004. The gross income from the Foundation during the financial year (also including funding of the second project, which concludes in late 2004) was \$206,285, or 18.2% of revenue.

These large increases in funding meant that the proportion of its income generated by the EDO reduced from 32% to 15.6%.

FINANCIAL PERFORMANCE

For the financial year 2003-2004, the EDO generated an overall surplus of \$203,733 compared to a deficit of \$43,490 in the previous 12 months.

It should be noted that, as stated by our auditors: "With the previous arrangement regarding the MacArthur Account, the bank account was treated as a trust account whereby MacArthur contributions were banked into a separate account and approved MacArthur expenses paid out of the same account. This approach was based on the assumption the Funds were not EDO's and as such the only monies/income derived from MacArthur was when EDO's solicitors did fee bills."

Due to the above process being in place from 1999 to 2004, and the fact that the grants have changed for the 2003-2004 and 2004-2005 years, the balance of the previous MacArthur arrangement which should have been allocated over the period 1999 to 2004 is included as 30 June 2004 as income. It relates to expenditure incurred by EDO in the prior years and the current year.

This amount totalled \$128,494, so the operating surplus for the 2003-2004 year, if this is discounted, was \$75,239, a good result based on:

- Increased funding through the Public Purpose Fund and MacArthur foundation, taking total funding from \$497,326 to \$822,978 an increase of over 65%
- Increases in donations, interest income and recoveries of disbursements relating to legal matters
- Reductions in operating expenses in the areas of audit, utilities, and staff training and recruitment
- Education activities generating a surplus

Salaries and superannuation, the largest expenditure item, rose by just under 13% to \$637,727, after allowing for a 3% general increase to all staff to bring levels a little closer to commercial rates. Even so, this expenditure item represented just 5.6% of turnover compared to 7.7% a year earlier, another reflection of the improved financial controls in place.

The mid-year budget review, following the successful example of 2002-2003, meant a closer scrutiny of expenditures in particular, as well as improved financial reporting. This process has been set in place for future years.

STATEMENT OF FINANCIAL POSITION
AS AT 30 JUNE 2004

	2004 (\$)	2003 (\$)
CURRENT ASSETS		
Cash	284,378	271,690
Receivables	349,932	109,797
Other	8,893	6,195
TOTAL CURRENT ASSETS	643,203	387,682
NON CURRENT ASSETS		
Property, Plant and Equipment	3,482	11,976
TOTAL NON-CURRENT ASSETS	3,482	11,976
TOTAL ASSETS	646,685	399,658
CURRENT LIABILITIES		
Payables	179,864	11,076
Provisions	44,436	26,764
Other	-	143,166
TOTAL CURRENT LIABILITIES	224,300	181,006
TOTAL LIABILITIES	224,300	181,006
NET ASSETS	422,385	218,652
EQUITY		
Reserves	110,000	110,000
Retained Profits	312,385	108,652
TOTAL EQUITY	422,385	218,652

SUMMARISED PROFIT AND LOSS ACCOUNT
FOR THE YEAR ENDED 30 JUNE 2004

	2004 (\$)	2003 (\$)
OPERATING REVENUE		
Conference and Publications	48,387	42,977
Fees	69,658	136,189
Grants	745,187	497,326
Interest	8,492	4,529
Donations	28,636	33,810
Other Income	24,022	17,507
MacArthur Income	206,285	-
TOTAL REVENUE	1,130,667	732,338
OPERATING EXPENDITURES		
Salaries and Superannuation	637,727	566,309
Overheads, including Rent, Insurance and Depreciation	88,265	77,786
General Expenses, incl. Accountancy	20,475	17,766
Daily Expenses, including Post, Courier, Phone, Stationery	39,668	42,713
Other, including Training, Practising Certificates, Bad Debts	33,490	38,505
Conferences and Publications	24,122	32,749
Foreign Currency Loss	4,831	-
MacArthur Expenses	78,356	-
TOTAL EXPENDITURES	926,934	775,828
OPERATING PROFIT/(LOSS) AFTER TAX	203,733	(43,490)

INDEPENDENT AUDIT REPORT

SCOPE

We have audited the financial statements, being the Directors' Declaration, Statement of Financial Performance, Statement of Financial Position, Statement of Cash Flows and Notes to and forming part of the financial statements of Environmental Defender's Office Limited for the year ended 30 June, 2004. The company's directors are responsible for the financial report. We have conducted an independent audit of this financial report in order to express an opinion on it to the members of the company.

Our audit has been conducted in accordance with Australian Auditing Standards to provide reasonable assurance whether the financial report is free of material misstatement. Our procedures included the evaluation of accounting policies and significant accounting estimates and examination, on a test basis, of evidence supporting the amounts and other disclosures in the financial report. These procedures have been undertaken to form an opinion as to whether, in all material respects, the financial report presents fairly, in accordance with Accounting Standards and other mandatory professional reporting requirements,

so as to present a view which is consistent with our understanding of the company's financial position, the results of its operations and its cash flows.

The audit opinion expressed in this report has been formed on the above basis.

AUDIT OPINION

In our opinion

- (a) the financial report presents truly and fairly in accordance with the *Corporations Act 2001*, applicable Australian Accounting Standards and other mandatory professional reporting requirements the financial position of the company as at 30 June 2004, and the results of its operations and cash flows for the year then ended.
- (b) the financial statements also give a true and fair view of the financial result of fundraising appeals for the financial year ended 30 June 2004;
- (c) the financial statement and associated records have been properly kept in accordance with the *NSW Charitable Fundraising Act 1991 (the "Act")* and the *NSW*

Charitable Fundraising Regulations 1993 (the "Regulations") during the financial year ended 30 June 2004;

- (d) money received as a result of fundraising appeals conducted during the financial year ended 30 June 2004 has been properly accounted for and applied in accordance with the Act and the Regulations; and
- (e) nothing has come to our attention that causes us to believe that the Environmental Defender's Office will not be able to pay its debts as and when they fall due.

LITTLEWOODS

Chartered Accountants

Aubrey Reisen C.A.
Registered Company Auditor
Level 2, 89 York Street, Sydney NSW
2000

